

W. LEROY EWELL

IBLA 81-930

Decided September 24, 1981

Appeal from decision of Utah State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. U MC 81928 through U MC 81961.

Affirmed, as modified.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment--National Park Service

Pursuant to 43 CFR 3833.4 and 36 CFR 9.5(d), unpatented mining claims located on lands within any unit of the national park system which were recorded in accordance with the Mining in the Parks Act, 16 U.S.C. § 1907 (1976), are properly deemed abandoned and void if a notice of intention to hold is not properly filed for record in the office where the location notice is recorded and a copy of the recorded instrument filed with the proper office of BLM on or before December 30 of each year, as required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976).

APPEARANCES: W. LeRoy Ewell, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

W. LeRoy Ewell appeals the June 22, 1981, decision of the Utah State Office, Bureau of Land Management (BLM), which deemed the unpatented Bronco Nos. 1 through 4, and Moody Nos. 1 through 30, lode mining claims, U MC 81928 through U MC 81961, abandoned and void because a notice of intention to hold the claims was not filed with BLM prior to December 30, 1979, as required by 43 CFR 3833.2-1(b)(1).

The claims, which had been located in 1967, are situated within the Glen Canyon National Recreation Area, under jurisdiction of the National Park Service (NPS). Notices of the claim locations were properly and timely recorded with NPS pursuant to section 8 of the Mining in the Parks Act, 16 U.S.C. § 1907 (1976). Owners of the claims were thereby excused from performance of annual assessment work.

Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), however, requires the owners of unpatented mining claims located on public land on or before October 21, 1976, to file either a notice of intention to hold the claim or proof of assessment work performed on or for the benefit of the claim, on or before October 22, 1979, and on or before December 30 of each calendar year, with the office in which the notice of location is recorded, and to file a copy of the official record with the proper office of BLM, also on or before December 30 of each year.

[1] As the subject claims had been excused from the performance of annual assessment work, it was necessary that a notice of intention to hold the claims be filed in accordance with section 314 of FLPMA, supra. There is no record in the case files that such notice was filed with BLM on or before October 22, 1979, or at any time. BLM therefore properly deemed the claims to be abandoned and void, but it should have used October 22, 1979, as the critical date. 43 U.S.C. § 1744(c) (1976); 36 CFR 9.5(d); 43 CFR 3833.4.

Appellant states that he was unaware of the requirement to file such a notice of intention to hold the claims where the assessment work was not required.

Appellant's confusion or uncertainty does not relieve him from compliance with the statutory requirements. All persons dealing with the Government are presumed to have knowledge of the pertinent statutes and duly promulgated regulations thereunder. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Abram H. Kreider, 57 IBLA 68 (1981); Gordon L. Cooper, 51 IBLA 191 (1980); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976). The responsibility for complying with the recordation requirements of the pertinent statutes and regulations rested with appellant. This Board has no authority to excuse lack of compliance or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed, as modified.

Douglas E. Henriques

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge.

